

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

WALTER L. HODGE, # K8192

PETITIONER

VERSUS

CIVIL ACTION NO. 3:09-cv-798-HTW-LRA

CHRISTOPHER EPPS AND JIM HOOD

RESPONDENTS

ORDER OF TRANSFER PURSUANT TO 28 U.S.C. § 1631

This matter comes before this Court, *sua sponte*, for consideration of the transfer of this cause. The Petitioner, an inmate currently incarcerated in the Marshall County Correctional Facility, Holly Springs, Mississippi, filed this request for habeas corpus relief pursuant to Title 28 U.S.C. § 2254 on December 30, 2009. Petitioner states that on July 31, 2001, he was convicted of murder in the Circuit Court of Hinds County, Mississippi and sentenced to life in the custody of the Mississippi Department of Corrections.

The Petitioner has previously filed for habeas relief in this Court challenging the same conviction, in civil action number 3:04-cv-28-TSL-AGN. On December 12, 2005, this Court entered a final judgment which dismissed the action, with prejudice. The Petitioner has not appealed the decision of this Court.

A Petitioner who is filing a second or successive motion for habeas relief must first apply to the appropriate court of appeals for an order authorizing the district court to consider the successive motion. Title 28 U.S.C. § 2244(b)(3)(A). The Petitioner has failed to submit any documentation demonstrating that he has obtained the required authorization from the United States Court of Appeals for the Fifth Circuit. Therefore, this Court has determined that in the interest of justice, this cause should be transferred to the United States Court of Appeals for the

Fifth Circuit for a determination whether this successive or second petition should be allowed.

See In Re Epps, 127 F.3d 364 (5th Cir. 1997). Accordingly, it is hereby,

ORDERED that pursuant to Title 28 U.S.C. § 1631, this petition for habeas corpus relief is transferred to the United States Court of Appeals for the Fifth Circuit.

IT IS FURTHER ORDERED that the Clerk of this Court is directed to close this case pending the decision of the United States Court of Appeals for the Fifth Circuit.

SO ORDERED, this the 25th day of February, 2010.

s/ HENRY T. WINGATE
CHIEF JUDGE
UNITED STATES DISTRICT COURT